

Senate Bill 1302 (Committee on Revenue and Taxation) Chapter 865*Board-sponsored housekeeping measure*

Effective January 1, 2000. Amends Sections 6203, 6452, 6454, 6479.3, 6480.1, 6480.6, 6480.16, 6592, 7273, 7354, and 8101 of, and adds Sections 6479.31, 8106.7, and 8127.6 to, the Revenue and Taxation Code.

This Board-sponsored measure accomplishes the following:

- 1. Deletes from the definition of “engaged in business in this state” language that could be susceptible to constitutional challenge (§6203).**
- 2. Authorizes the Board to accept electronic filing of sales and use tax returns (§§6452, 6454, and 6479.31).**
- 3. Clarifies that the maximum penalty with respect to electronic funds transfers of prepayments shall be limited to 6% (§6479.3).**
- 4. Authorizes the Board to compute the jet and diesel fuel sales tax prepayment rates independently of the sales tax prepayment rate calculated for gasoline in order to eliminate excess prepayments (§6480.16).**
- 5. Makes technical corrections to the provisions that allow the Board to relieve a taxpayer from penalties under certain circumstances (§6592).**
- 6. Extends the time period in which the Board is required to furnish a report to the Legislature on the amounts the Board charges for administering a local special taxing jurisdiction’s transactions and use taxes (§7273).**

In addition to the Board-sponsored provisions, this bill allows qualified distributors to convert taxpaid gasoline gallons purchased from nonqualified distributors to ex-tax gallons. This bill provides a qualified distributor either of two options: 1) obtain a refund of the prepaid sales tax and excise tax on purchases from a nonqualified distributor; or, 2) claim a tax credit on their tax returns for the tax paid to a nonqualified distributor.

Sponsor: Western States Petroleum Association (qualified distributor provisions)

Law Prior to Amendment (qualified distributor provisions):

Under existing law, an excise tax of \$0.18 per gallon is imposed on the distribution (sale) of motor vehicle fuel (gasoline) in this state. Certain “qualified” distributors are authorized by the Board to sell and trade gasoline among themselves without incurring an excise tax liability provided they meet the security deposit requirements contained in Section 7401. Upon distribution to an unqualified distributor, the excise tax is due and payable to the Board. Any distributor that redistributes taxpaid gasoline is allowed to claim an offsetting credit for taxes paid to the previous distributor.

Under existing law, Section 6480.1 of the Sales and Use Tax Law requires the prepayment of the sales tax on the first distribution of gasoline in this state. Qualified distributors are also allowed to sell gallons among themselves without incurring the prepaid sales tax liability. Otherwise, the prepaid sales tax is collected and paid by each distributor and wholesaler (with offsetting credits allowed for amounts paid to the previous distributor or wholesaler) until claimed as a final credit by the retailer of the gasoline as an offset to the sales tax due on the retail selling price at the pump. The prepaid sales tax rate for April 1, 1999 through March 31, 2000 is \$0.07 per gallon.

Background:

When all the distributors in the chain of distribution are qualified, the fuel is bought and sold tax-free and the tax collection system operates smoothly. Occasionally, however, a nonqualified distributor will sell gasoline to a qualified distributor and pass on both the excise and prepaid sales taxes. The gasoline purchased from the nonqualified distributor becomes taxpaid gallons to the qualified distributor and the gasoline remains taxpaid on each subsequent sale to another distributor.

In recent years errors have occurred when qualified distributors have sold or traded gallons among themselves believing the transfer to be extax, when in fact they were taxpaid transactions due to the involvement of a nonqualified distributor in the chain. The distributors take incorrect deductions or credits on their returns because of the taxpaid gallons. In some cases, the qualified distributor has been unable to receive a credit or refund for taxes paid on fuel because the qualified distributor failed to claim a credit or file a claim for refund in a timely manner.

Comments:

This bill is intended to simplify the administration of the gasoline tax collection system by allowing qualified distributors to treat all gasoline they purchase as tax-free. The Board does not anticipate any reporting or compliance problems from this change.